

# TRAITÉ DE COOPÉRATION EN MATIÈRE DE BREVETS

## PCT

### RAPPORT PRÉLIMINAIRE INTERNATIONAL SUR LA BREVETABILITÉ (chapitre I du Traité de coopération en matière de brevets)

(règle 44bis du PCT)

Référence du dossier du déposant ou du mandataire JML040205/PHB	<b>POUR SUITE À DONNER</b> Voir le point 4 ci-dessous	
Demande internationale no. PCT/FR2004/003157	Date du dépôt international (jour/mois/année) 08 December 2004 (08.12.2004)	Date de priorité (jour/mois/année) 26 December 2003 (26.12.2003)
Classification internationale des brevets (8 <sup>e</sup> édition, sauf indication d'une #dition ant#rieure) Voir les informations pertinentes dans le formulaire PCT/ISA/237		
Déposant FRANCE TELECOM		

1. Le présent rapport préliminaire international sur la brevetabilité (chapitre I) est établi par le Bureau international au nom de l'administration chargée de la recherche internationale selon la règle 44bis.1.a).

2. Ce RAPPORT comprend un total de 7 feuilles, y compris la présente feuille de couverture.

Dans les feuilles jointes, toute référence à l'opinion écrite de l'administration chargée de la recherche internationale doit être entendue, à la place, comme une référence au rapport préliminaire international sur la brevetabilité (chapitre I).

3. Le présent rapport contient des indications relatives aux points suivants :

- |                                     |               |   |
|-------------------------------------|---------------|---|
| <input checked="" type="checkbox"/> | Cadre n° I    | Base de l'opinion   |
| <input type="checkbox"/>            | Cadre n° II   | Priorité  |
| <input type="checkbox"/>            | Cadre n° III  | Absence de formulation d'opinion quant à la nouveauté, l'activité inventive et la possibilité d'application industrielle  |
| <input type="checkbox"/>            | Cadre n° IV   | Absence d'unité de l'invention  |
| <input checked="" type="checkbox"/> | Cadre n° V    | Déclaration motivée selon l'article 35.2) quant à la nouveauté, l'activité inventive et la possibilité d'application industrielle; citations et explications à l'appui de cette déclaration |
| <input type="checkbox"/>            | Cadre n° VI   | Certains documents cités  |
| <input type="checkbox"/>            | Cadre n° VII  | Certaines irrégularités relevées dans la demande internationale   |
| <input checked="" type="checkbox"/> | Cadre n° VIII | Certaines observations relatives à la demande internationale  |

4. Le Bureau international communiquera le présent rapport aux offices désignés conformément aux règles 44bis.3.c) et 93bis.1 mais pas avant l'expiration du délai de 30 mois à compter de la date de priorité (règle 44bis.2), sauf si le déposant a présenté une requête expresse à cet égard en vertu de l'article 23.2).

Date d'établissement du présent rapport 29 August 2006 (29.08.2006)	
Bureau international de l'OMPI 34, chemin des Colombettes 1211 Geneva 20, Switzerland no de télécopieur +41 22 338 82 70	Fonctionnaire autorisé  Athina Nickitas-Etienne e-mail: pt04@wipo.int

# PATENT COOPERATION TREATY

TRANSLATION

From the  
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing (day/month/year) **See Form PCT/ISA/210 (sheet 2)**

Applicant's or agent's file reference

**JML040205/PHB**

**FOR FURTHER ACTION**

See paragraph 2 below

International application No.

**PCT/FR2004/003157**

International filing date (day/month/year)

**08.12.2004**

Priority date (day/month/year)

**26.12.2003**

International Patent Classification (IPC) or both national classification and IPC

**H04L12/56**

Applicant

**FRANCE TELECOM**

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/FR2004/003157

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐

This opinion has been established on the basis of a translation from the original language into the following language

\_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐

a sequence listing

☐

table(s) related to the sequence listing

b. format of material

☐

in written format

☐

in computer readable form

c. time of filing/furnishing

☐

contained in the international application as filed.

☐

filed together with the international application in computer readable form.

☐

furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/FR2004/003157

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	2-15, 17-24, 26-30	YES
	Claims	1, 16, 25	NO
Inventive step (IS)	Claims		YES
	Claims	1-30	NO
Industrial applicability (IA)	Claims	1-30	YES
	Claims		NO

2. Citations and explanations:

Reference is made to the following documents:

- D1: AWDUCHE ET AL.: "RSVP-TE: Extension to RSVP for LSP Tunnels" IETF NETWORK WORKING GROUP RFC 3209, December 2001 (2001-12), XP015008988
- D2: ROSEN ET AL.: "Multiprotocol Label switching Architecture RFC3031" IETF NETWORK WORKING GROUP RFC3031, January 2001 (2001-01), XP015008814

The application fails to comply with the requirements of PCT Article 6 through lack of clarity since the independent claims do not include all the essential features of the invention, which seeks to solve the problem of load sharing in the network with the aid of a routing table augmented with two features "load and reference" (table 2 and page 14) and BFIV. Moreover, as the FFIV and FIV features are between brackets they must therefore be regarded as non-existent while the invention resides in the definition and the interpretation of these fields.

Moreover, without these essential features, while the independent claims 1, 16 and 25 are not inventive (PCT

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Box No. V

Reasoned statement under Rule 43bis1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

Article 33(3)) with respect to the standard practices recognized as such by the applicant, of record routing as for example RSVP-TE with the RRO object (cf. D1) or even not novel with respect to the standard practice of MPLS with label stacking.

In fact, a network edge router in MPLS opens the packet, looks to see whether there is a label with the aid of an index and of pointers provided for this purpose (TLV: Tag length Value of the stack). If the label of the stack is known it routes as a function, if the stack is empty or the label unknown the network edge router has the possibility of adding its own label to inject the packet into the MPLS network exactly as in claim 1.

A router of the MPLS network in the core of the chain stacks, unstacks, adds labels as in claim 16 or 25.

The terminal 20 belongs to the general knowledge of the person skilled in the art. It simply involves filling an IP packet by TLV (Tag length value) or start of payload pointer (FFIV) in the header of the IP packet. The person skilled in the art is aware of all the ways of filling a packet of bits whether it be by index, TLV or pointers. The claim does not state more than indices, lists and values and is completely uncorrelated (lacks inter-function relations) from what these data represent.

These interpretations are made possible by virtue of the very broad extent of the claim and the lack of the numerous essential features of the invention.

The invention is in essence "stateless" for load sharing

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INTERNATIONAL SEARCHING AUTHORITY

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Box No. V Reasoned statement under Rule 43bis1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

and close to RRO for "route pinning" whereas MPLS (D1, D2 and D3) is "stateful" for its traffic engineering part. D4 and D5 tackle the stateless aspect in respect of the traffic engineering part but remain far from algorithmics with respect to the invention as described not as claimed.

To be acceptable, the terminal ought to be linked to the inventive concept of which type of information is generated to trigger the inventive method of selecting routes combined with the route recording to perform in return route pinning.

To be acceptable the method and router claims should build in all the essential features of this inventive concept.

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

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**Box No. VIII**      **Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made: